

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

RANDY LEE LASSITER, JR. (#1490582),

Petitioner,

v.

CIVIL ACTION NOS. 2:23cv349 & 2:23cv368

CHADWICK DOTSON,

Director of the Virginia

Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner alleges many claims that were procedurally defaulted in state court, and he has failed to plausibly allege any grounds to excuse his default. With regard to the claims he properly exhausted in state court, his petition fails to establish grounds for federal review under the deferential standard that applies to the state courts' merits decisions.¹

The petition was referred to a United States Magistrate Judge for a report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed May 9, 2024, recommends dismissal of the petition with prejudice as Petitioner has not demonstrated grounds for federal habeas relief. (ECF

¹ In addition to various discovery motions, motions for appointment of counsel, motions for evidentiary hearing, and motions for a bond hearing, all of which were resolved by Order entered December 18, 2023 (ECF No. 51), Petitioner also filed a Motion for Contempt of Order (ECF No. 50), Motion for the Appointment of Counsel (ECF No. 52), Motion for Default Judgment (ECF No. 53), Motion for Bail (ECF No. 54), and Motion for Summary Judgment (ECF No. 55).

No. 56). On June 3, 2024, the court received Petitioner's Objections to the Magistrate Judge's Report and Recommendation. (ECF No. 57).² The Government did not respond to Petitioner's Objections, and the time for doing so has now expired.

The Court, having reviewed the record and examined the objections filed by the Petitioner to the Magistrate Judge's Report and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed May 9, 2024, and it is, therefore, ORDERED that Respondent's Motion to Dismiss (ECF No. 37) is GRANTED, Lassiter's petition is DENIED and DISMISSED with prejudice, and judgment shall be entered in favor of the Respondent. It is FURTHER ORDERED that Petitioner's Motion for Contempt of Order (ECF No. 50), Motion for the Appointment of Counsel (ECF No. 52), Motion for Default Judgment (ECF No. 53), Motion for Bail (ECF No. 54), and Motion for Summary Judgment (ECF No. 55) are all DENIED AS MOOT.

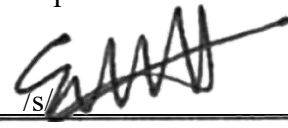
Finding that the basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is DENIED. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is ADVISED that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from**

² Although titled a "Motion for Reconsideration," by Order entered June 18, 2024, the court construed Petitioner's filing as an Objection to the Report and Recommendation. (ECF No. 58).

the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is directed to mail a copy of this Final Order to Petitioner and provide an electronic copy of the Final Order to counsel of record for Respondent.

A handwritten signature in black ink, appearing to be 'E. Hanes', written over a horizontal line.

Elizabeth W. Hanes
United States District Judge

Norfolk, Virginia
July 9, 2024